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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 ELLIOTT D. GOODIN,

8 Plaintiff,

9 v.

10 IKE (ROBERT) VERCOE,

11 Defendant.

NO. 2:18-CV-0392-TOR

ORDER FOLLOWING  
COMPETENCY HEARING AND  
DENYING DEFENDANT’S MOTION  
TO PRODUCE MEDICAL RECORDS

12 On Thursday, February 6, 2020, the Court conducted a competency hearing.  
13 Plaintiff Elliott Goodin appeared and proceeded *pro se*. Joseph Ehle and Derek T.  
14 Taylor appeared on behalf of Defendant. The Court has reviewed the record and  
15 files herein, and is fully informed. For the reasons discussed below, the Court  
16 finds Plaintiff is competent to proceed *pro se*, and denies Defendant’s Motion to  
17 Produce Medical Records (ECF No. 23), with leave to renew.

18 **BACKGROUND**

19 Plaintiff Elliott D. Goodin, proceeding *pro se* and *in forma pauperis*, brings  
20 this suit against Defendant Ike (Robert) Vercoe, asserting a cause of action under

1 42 U.S.C. § 1983. Plaintiff is a patient at Eastern State Hospital, and Defendant is  
2 an employee of Eastern State Hospital. ECF No. 1 at 2-3. For reasons previously  
3 explained at ECF No. 24, the circumstances of this case triggered the Court's  
4 obligation under Fed. R. Civ. P. 17(c) to determine whether Plaintiff is competent  
5 to proceed *pro se* and whether appointment of a guardian ad litem is necessary.

## 6 **DISCUSSION**

### 7 **A. Competency to Proceed**

8 Under the Federal Rules of Civil Procedure, the court “must appoint a  
9 guardian ad litem – or issue another appropriate order – to protect a minor or  
10 incompetent person who is unrepresented in an action.” Fed. R. Civ. P. 17(c). An  
11 individual's capacity to sue is determined by the law of the individual's domicile.  
12 Fed. R. Civ. P. 17(b)(1). Here, Plaintiff is domiciled in Washington. Under  
13 Washington law, “a court properly appoints a [guardian ad litem] for a litigant  
14 party when the court is reasonably convinced that the litigant is not competent to  
15 understand the significance of legal proceedings and the effect of such proceedings  
16 on the litigant's best interests.” *In re Marriage of Blakely*, 111 Wash. App. 351,  
17 358 (2002). “Federal courts in this circuit have found that a broad range of  
18 evidence may inform the court's decision [on a Rule 17 competency  
19 determination]: a report of mental disability by a government agency, ... the sworn  
20 declaration of the person or those who know him, ... the representations of

1 counsel, ... diagnosis of mental illness, ... a review of medical records, ... the  
2 person's age, illnesses, and general mental state, ... and the court's own  
3 observations of the person's behavior, including the person's 'manner and  
4 comments throughout the case' that suggest he does not 'have a grasp on the nature  
5 and purpose of the proceedings' ... ." *AT&T Mobility, LLC v. Yeager*, 143 F.  
6 Supp. 3d 1042, 1050 (E.D. Cal. 2015) (internal citations omitted).

7       Here, the Court engaged in a colloquy with Plaintiff and finds that Plaintiff  
8 is competent to understand the significance of the proceedings in this case and the  
9 effects of those proceedings on his best interests. *Blakely*, 111 Wash. App. at 358.  
10 Upon questioning from the Court, Plaintiff was able to explain the nature of this  
11 case, the allegations he has made against Defendant, the injury he alleges he has  
12 suffered, and how this case could help him recover for the alleged injury. Plaintiff  
13 further stated that he has consulted with a private attorney, who is currently  
14 considering representing Plaintiff in this matter. Plaintiff was responsive to the  
15 Court's questioning and was able to communicate in a logical and coherent  
16 manner. Accordingly, the Court finds Plaintiff is competent to proceed *pro se* and  
17 a guardian ad litem is not necessary to protect his interests.

## 18       **B. Discovery Motion**

19       Upon determining Plaintiff is competent to proceed *pro se*, the Court  
20 considered Defendant's Motion to Produce Medical Records (ECF No. 23), which

1 was previously held in abeyance pending the competency determination. *See* ECF  
2 No. 24. Plaintiff orally objected to the discovery request on the grounds that it was  
3 not relevant to this case. The Court agrees that the discovery motion, in its current  
4 state, is overly broad and seeks information not relevant to this case. Defendant  
5 may file a new discovery motion that is more tailored to obtain information  
6 specifically relevant to this case.

7 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 8 1. Defendant's Motion to Produce Medical Records (ECF No. 23) is  
9 **DENIED**, with leave to renew.

10 The District Court Executive is directed to enter this Order and furnish  
11 copies to the parties.

12 **DATED** February 6, 2020.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
Chief United States District Judge